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LETTER DATED 17 DECEMBER 1992 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to set out the position of Iraq on an important matter relating to decision 10, contained in document S/AC.26/1992/10 and adopted by the Governing Council of the United Nations Compensation Commission at its 27th meeting on 26 June 1992, by which the Council approved the Provisional Rules for Claims Procedure.

On 2 May 1991, the Secretary-General submitted his report on the subject of compensation (S/22559) pursuant to paragraph 19 of Security Council resolution 687 (1991). Section II of that report and, more specifically, paragraph 26 stress that Iraq will be informed of all claims and will have the right to present its comments to the commissioners within time-delays to be fixed by the Governing Council or the Panel dealing with the individual claim.

In paragraph 5 of its resolution 692 (1991), the Security Council directed the Governing Council to proceed in an expeditious manner to implement the provisions of section E of resolution 687 (1991), taking into account the recommendations in section II of the Secretary-General's report (S/22559), including paragraph 26, as mentioned above.

In fact, however, the Governing Council has not taken account of these recommendations, contrary to the instructions contained in Security Council resolution 692 (1991), and has instead adopted a procedure whereby a copy of the report of the Executive Secretary of the Compensation Commission is sent to all Governments and international organizations, including Iraq; the Government of Iraq, other Governments and international organizations are then entitled to present their views within 30 days in the case of claims in categories A, B and C, or within 90 days in the case of other claims, although the report does not provide any details about the claims which would make it possible to present such views.

The adoption of this procedure by the Governing Council, together with its failure to follow the recommendations of the Secretary-General, as adopted by the Security Council, have made it impossible for Iraq to acquaint itself with the details of claims and so deprived it of its entitlement to comment and present its views in that connection. Those details are, however,

available to the Governments submitting the claims and to the secretariat of the Commission. By its decision 10, the Council has thus denied Iraq its legal and logical right, despite the fact that Iraq is the only party of crucial importance with respect to the payment of compensation.

The Governing Council's disregard for the aforementioned recommendations of the Secretary-General is highlighted by the contents of the first report of the Executive Secretary of the Compensation Commission, dated 30 October 1992. The report provides numbers without any explanation or details, giving the number of individual claims as 65,693, as well as 42 consolidated claims filed by 18 Governments, together with the names of the States concerned and the amounts sought by category. Neither does the report provide any information which could be verified by Iraq, any views or comments, or even the names and nationalities of claimants. It is obviously impossible to comment on a report of this nature or to check the claims listed therein. What the Governing Council should be striving to do is to use all available means to verify the accuracy of claims submitted, with a view to avoiding fraud and duplication, and to provide Iraq with information and supporting documentation relating to the claims; this would undoubtedly help the Commissioners to establish the truth, as recommended in the report of the Secretary-General.

In light of the above, the Government of the Republic of Iraq believes that decision 10 of the Governing Council of the United Nations Compensation Commission and the report of the Executive Secretary to the Governing Council are essentially incompatible with the principles of justice and equity and with the provisions of Security Council resolution 692 (1991).

Accordingly, the Government of the Republic of Iraq calls on the Security Council to take whatever measures it deems appropriate to correct the situation in such a way as to ensure compliance with the relevant instructions of the Council.

I should be grateful if you would have this letter distributed as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative